



Docket No.: 064162-0030

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of : Customer Number: 20277
Michael L ROONEY : Confirmation Number: 5087
Application No.: 10/757,848 : Group Art Unit: 1714
Filed: January 16, 2004 : Examiner: Anthony Joseph David
For: OXYGEN SCAVENGERS INDEPENDENT OF TRANSITION METAL CATALYSTS

RESPONSE TO RESTRICTION REQUIREMENT

Mail Stop Restriction Requirement
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This is in response to the Restriction Requirement mailed October 5, 2006. Accordingly, this response is due on or before January 5, 2007, together with a petition and the fee for a two month extension of time.

In a telephone call initiated by the Examiner on April 4, 2006, restriction to one of the following groups of claims was required:

Group I, including claims 35-49, directed to an indicator for seal breakage; and
Group II, claims 67-83, directed to a method of detecting seal breakage.

Applicants elected Group I for prosecution by return phone call to the Examiner within the allotted amount of time to respond (ten days). However, On October 5, 2006, the Examiner mailed a second restriction requirement, reiterating the requirement for restriction to one of the two groups of claims, and further requiring an election of species for each of the following:

- 1) the source of labile hydrogen or electrons;
- 2) the reducible organic compound; and
- 3) the oxygen scavenging compounds (recited in claims 46-49 and 79-82).

Applicants herein elect Group I, including claims 35-49, directed to an indicator of seal breakage and elect the following species:

- 1) ethyl cellulose as the source of labile hydrogen;
- 2) 2-methyl-anthraquinone as the reducible organic compound; and
- 3) triphenylphosphite as the scavenging component.

This election is made with traverse.

The two groups of claims are related as product and process of use, and therefore, at the very least; the process claims should be rejoined in the application upon allowance of the product claims. As such, the Examiner's assertion that the process can be carried out with another product is incorrect. The method claims specifically recite a product as set forth in the product claims. Therefore, restriction is improper and should be withdrawn.

Further, it is respectfully submitted that inasmuch as Applicant's counsel timely responded to a Restriction Requirement made by the Examiner six months prior to the issuance of this second Restriction Requirement, Applicant is entitled to patent term adjustment upon allowance of the application.

It is respectfully submitted that the application is in condition for examination.

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To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

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**Please recognize our Customer No. 20277
as our correspondence address.**